

AMENDED IN SENATE APRIL 17, 2006

**SENATE BILL**

**No. 1681**

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**Introduced by Senator Cox**

February 24, 2006

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An act to ~~add Section 5090.25 to~~ amend Sections 5090.15, 5090.23, 5090.24, 5090.32, 5090.50, and 5090.51 of, to add Section 5090.54 to, and to repeal Sections 5090.63 and 5090.70 of, the Public Resources Code, and to amend Section 38225 of the Vehicle Code, relating to off-highway vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1681, as amended, Cox. Off-Highway—~~Motor Vehicle Recreation Commission~~. motor vehicle.

(1) Existing law, the Off-Highway Motor Vehicle Recreation Act of 2003, provides for the acquisition, operation, and funding of state off-highway vehicular recreation areas and trails. Existing law provides for the Off-Highway Motor Vehicle Recreation Commission. Specified taxes imposed upon the distribution of motor vehicle fuel and certain fees, fines, forfeitures, and reimbursements are required, under existing law, to be deposited in the Off-Highway Vehicle Trust Fund for allocation, upon appropriation by the Legislature, by the Off-Highway Motor Vehicle Recreation Commission.

All of the above provisions in existing law are to be repealed on January 1, 2007, or January 1, 2008.

This bill would delete the January 1, 2007, and January 1, 2008, repeal dates, but would extend the repeal date currently applicable to the collection and disposition of certain related fees, to January 1, 2009.

(2) Existing law requires the Off-Highway Motor Vehicle Recreation Commission to establish policies for the general guidance of the Division of Off-Highway Motor Vehicle Recreation in the Department of Parks and Recreation regarding all aspects of the system and the program. Existing law requires the division to implement the policies established by the commission.

This bill, instead, would require the division to establish and implement policies regarding all aspects of the system, as defined, and the program, as defined, and would require the commission to establish general guidance for the director and the division in establishing the policies. The bill would require the division, rather than the commission, to adopt criteria for the awarding of grants; and would require the division to designate the appropriate county sheriff as the off-highway vehicle law enforcement coordinator for each vehicle recreation area and trail.

(3) Existing law requires the division to obtain the commission's approval in making grants or cooperative agreements for the planning, acquisition, development, maintenance, administration, operation, enforcement, restoration, and conservation of trails, trailheads, areas, and other facilities associated with the use of off-highway motor vehicles, and programs involving off-highway motor vehicles safety or education.

This bill would delete this requirement.

This bill would require, in awarding a grant or entering into cooperative agreements involving law enforcement agencies; that provision be made for designating the appropriate county sheriff as the off-highway motor vehicle law enforcement coordinator; that the division develop and implement a system for minimum grants to those law enforcement agencies that comply with the technical aspects of grant applications as certified by the division; and that a law enforcement agency that makes a grant application or receives funding from a grant demonstrate an ability to provide, maintain, enhance, or create new off-highway motor vehicle recreational opportunities.

This bill would also delete numerous obsolete provisions.

~~Existing law creates the Off-Highway Motor Vehicle Recreation Commission in the Department of Parks and Recreation; provides for its membership; and specifies its duties and procedures.~~

~~This bill would express the intent of the Legislature to enact legislation addressing the membership composition of, and the procedures employed by, the commission.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 5090.15 of the Public Resources Code is*  
2     *amended to read:*

3     5090.15. (a) There is in the department the Off-Highway  
4     Motor Vehicle Recreation Commission, consisting of seven  
5     members, three of whom shall be appointed by the Governor,  
6     two of whom shall be appointed by the Senate Committee on  
7     Rules, and two of whom shall be appointed by the Speaker of the  
8     Assembly.

9     (b) In order to be appointed to the commission, a nominee  
10    shall represent one or more of the following groups:

- 11    (1) Off-highway vehicle recreation interests.  
12    (2) Biological or soil scientists.  
13    (3) Groups or associations of predominantly rural landowners.  
14    (4) Law enforcement.  
15    (5) Environmental protection organizations.  
16    (6) Nonmotorized recreationist interests.

17    It is the intent of the Legislature that appointees to the  
18    commission represent all of the groups delineated in paragraphs  
19    (1) to (6), inclusive, to the extent possible.

20    (c) Whenever any reference is made to the State Park and  
21    Recreation Commission pertaining to a duty, power, purpose,  
22    responsibility, or jurisdiction of the State Park and Recreation  
23    Commission with respect to the state vehicular recreation areas,  
24    as established by this chapter, it shall be deemed to be a reference  
25    to, and to mean, the Off-Highway Motor Vehicle Recreation  
26    Commission.

27    ~~(d) Based on the findings in the 2004 Off-Highway Vehicle~~  
28    ~~Fuel Tax Study, the division shall, not later than January 1, 2005,~~  
29    ~~prepare and submit to the Legislature a report that identifies the~~  
30    ~~principal reasons why people are using off-road trails and~~  
31    ~~facilities, and an estimate of the proportional amount of~~  
32    ~~off-highway motor vehicle use by jurisdiction, as a means of~~

1 ~~assisting in the determination of how fuel tax and in lieu of~~  
2 ~~property tax funds should be expended.~~

3 ~~(e) This section shall become inoperative on July 1, 2007, and,~~  
4 ~~as of January 1, 2008, is repealed, unless a later enacted statute~~  
5 ~~that is enacted before January 1, 2008, deletes or extends the~~  
6 ~~dates on which it becomes inoperative and is repealed.~~

7 *SEC. 2. Section 5090.23 of the Public Resources Code is*  
8 *amended to read:*

9 5090.23. The commission shall establish ~~policies for the~~  
10 ~~general guidance of~~ *for* the director and the division *to establish*  
11 *policies* regarding all aspects of the system and the program.

12 *SEC. 3. Section 5090.24 of the Public Resources Code is*  
13 *amended to read:*

14 5090.24. The commission has the following particular duties  
15 and responsibilities:

16 (a) Be fully informed regarding all governmental activities  
17 affecting the program.

18 (b) Meet at least four times per year at various locations  
19 throughout the state to receive comments on the implementation  
20 of the program. Establish an annual calendar of proposed  
21 meetings at the beginning of each calendar year.

22 (c) Consider, upon the request of any owner or tenant, whose  
23 property is in the vicinity of any land in the system, any alleged  
24 adverse impacts occurring on that person's property from the  
25 operation of off-highway motor vehicles and recommend to the  
26 division suitable measures for the prevention of any adverse  
27 impact determined by the commission to be occurring, and  
28 suitable measures for the restoration of adversely impacted  
29 property.

30 (d) Review and comment annually to the director on the  
31 proposed budget of expenditures from the fund.

32 (e) Review and ~~approve~~ *recommend to the division* all minor  
33 and major capital outlay expenditures proposed for the system.

34 (f) Conduct one public meeting annually, prior to the start of  
35 each grant program cycle, to collect public input concerning the  
36 program, recommendations for program improvements, and  
37 specific project needs for the system.

38 (g) Prepare and submit a program report to the Governor, the  
39 Assembly Water, Parks, and Wildlife Committee, the Senate  
40 Committee on Natural Resources and Wildlife, and the

1 Committee on Appropriations of each house on or before July 1,  
2 2005, and every two years thereafter. The report shall address the  
3 status of the program and off-highway motor vehicle recreation,  
4 the results of the strategic planning process completed pursuant  
5 to subdivision (n) of Section 5090.32, the condition of natural  
6 and cultural resources of areas and trails receiving state  
7 off-highway motor vehicle funds, the resolution of conflicts of  
8 use in those areas and trails, the status of, and the  
9 accomplishments of expenditures from, the Conservation and  
10 Enforcement Services Account, a summary of resource  
11 monitoring data compiled and restoration work concluded, and  
12 other relevant program-related environmental issues that have  
13 arisen over the preceding two calendar years.

14 The program report shall be adopted by the commission after  
15 discussing its contents during two or more public hearings.

16 (h) The commission shall hold a public hearing in an area in  
17 close proximity to any proposed substantial acquisition or  
18 development project unless a hearing consistent with federal law  
19 or regulation is held in close proximity to the proposed project.

20 *SEC. 4. Section 5090.32 of the Public Resources Code is*  
21 *amended to read:*

22 5090.32. The division has the following duties and  
23 responsibilities:

24 (a) Planning, acquisition, development, conservation, and  
25 restoration of lands in the state vehicular recreation areas.

26 (b) Direct management, maintenance, administration, and  
27 operation of lands in the state vehicular recreation areas.

28 (c) Provide for law enforcement and appropriate public safety  
29 activities, *including designating the appropriate county sheriff as*  
30 *the off-highway motor vehicle law enforcement coordinator for*  
31 *each vehicle recreation area and trail.*

32 ~~(d) Implementation of all aspects of the program.~~

33 ~~(e)~~

34 (d) Ensure program compliance with the California  
35 Environmental Quality Act (Division 13 (commencing with  
36 Section 21000)) in state vehicular recreation areas.

37 ~~(f) Implement~~

38 (e) *Establish and implement the policies established by the*  
39 *commission regarding all aspects of the system and program.*

40 ~~(g)~~

1 (f) Provide staff assistance to the commission.

2 ~~(h)~~

3 (g) Prepare and implement plans for lands in, or proposed to  
4 be included in, state vehicular recreation areas, including new  
5 state vehicular recreation areas. However, no plan shall be  
6 prepared in any instance specified in subdivision (c) of Section  
7 5002.2.

8 ~~(i)~~

9 (h) Conduct, or cause to be conducted, surveys and prepare, or  
10 cause to be prepared, studies that are necessary or desirable for  
11 implementing the program.

12 ~~(j)~~

13 (i) Recruit and utilize volunteers to further the objectives of  
14 the program.

15 ~~(k)~~

16 (j) Prepare and coordinate safety and education programs.

17 ~~(l) Conduct, or cause to be conducted, an annual audit of~~

18 (k) Award grants and cooperative agreements, ~~and the~~  
19 ~~performance of any recipient in expending a grant or cooperative~~  
20 ~~agreement, made pursuant to Article 5 (commencing with~~  
21 ~~Section 5090.50) and to conduct, or cause to be conducted, an~~  
22 ~~annual audit of these grants and cooperative agreements, and the~~  
23 ~~performance of a recipient in expending funds under a grant or~~  
24 ~~cooperative agreement made pursuant to that article.~~

25 ~~(m)~~

26 (l) Provide for the enforcement of Division 16.5 (commencing  
27 with Section 38000) of the Vehicle Code and other laws  
28 regulating the use or equipment of off-highway motor vehicles in  
29 all areas acquired, maintained, or operated by funds from the  
30 fund; however, the Department of the California Highway Patrol  
31 shall have responsibility for enforcement on highways.

32 ~~(n) Complete by January 1, 2005, a strategic planning process~~  
33 ~~that will identify future off-highway vehicle recreational needs,~~  
34 ~~including, but not limited to, potential off-highway vehicle parks~~  
35 ~~in urban areas to properly direct vehicle operators away from~~  
36 ~~illegal or environmentally sensitive areas. This strategic planning~~  
37 ~~process shall take into consideration, at a minimum,~~  
38 ~~environmental constraints, infrastructure requirements,~~  
39 ~~demographic limitations, and local, state, and federal land use~~

1 ~~planning processes. The initial strategic plan shall be updated~~  
2 ~~periodically.~~

3 ~~(e) Prepare and submit a report to the Legislature on or before~~  
4 ~~January 1, 2005, that examines the effectiveness of the current~~  
5 ~~noise standard, enforcement efforts, public outreach and~~  
6 ~~education programs, the feasibility of improving the off-highway~~  
7 ~~vehicle noise standard, and reassessment of the dates specified in~~  
8 ~~paragraph (1) of subdivision (h) of Section 38370 of the Vehicle~~  
9 ~~Code. The report shall also consider future reporting needs and~~  
10 ~~appropriate reporting intervals.~~

11 *SEC. 5. Section 5090.50 of the Public Resources Code is*  
12 *amended to read:*

13 5090.50. (a) Grants may be made *by the division* to cities,  
14 counties, and appropriate districts if the grant applicant has  
15 approval to apply for grant funds, in the form of a resolution  
16 from its governing body.

17 (b) The division may enter into cooperative agreements with  
18 agencies of the United States and federally recognized Native  
19 American tribes.

20 (c) Grants and cooperative agreements may be awarded for the  
21 planning, acquisition, development, maintenance, administration,  
22 operation, enforcement, restoration, and conservation of trails,  
23 trailheads, areas, and other facilities associated with the use of  
24 off-highway motor vehicles, and programs involving  
25 off-highway motor vehicle safety or education.

26 (d) Grant and cooperative agreement applications shall be in  
27 accordance with local or federal plans and any plans for  
28 off-highway motor vehicle recreation prepared by the division.

29 (e) Notwithstanding subdivision (c), funds may be used for  
30 law enforcement and repairing damage caused by the use of  
31 off-highway motor vehicles on property being used by  
32 off-highway motor vehicles where the operation of those vehicles  
33 is prohibited by federal, state, or local law.

34 (f) Notwithstanding subdivision (c), grants may be awarded to  
35 educational institutions and nonprofit organizations for eligible  
36 projects that are designed to sustain a managed off-highway  
37 motor vehicle recreation program. Eligible projects shall be  
38 limited to scientific research, natural resource conservation  
39 activities, as defined in Section 5090.10, cultural resource  
40 conservation activities, and programs involving off-highway

1 motor vehicle safety or education. If the application for grant  
2 funds involves activities on any public lands, the applicant shall  
3 obtain approval from the affected land management agency and  
4 submit that approval with the application for grant funds. All  
5 projects shall comply with the requirements of subdivisions (g)  
6 and (h).

7 (g) Every applicant for a grant shall comply with the  
8 California Environmental Quality Act (Division 13 (commencing  
9 with Section 21000)). The division shall ensure that all  
10 cooperative agreement applications have completed  
11 environmental review procedures that are at least comparable to  
12 those of the California Environmental Quality Act.

13 (h) All cooperative agreements shall be subject to the uniform  
14 application of soil, wildlife, and wildlife habitat protection  
15 standards specified in Section 5090.53.

16 (i) Subdivision (h) does not apply to applicants that apply  
17 solely for law enforcement funding.

18 ~~(j) No grant may be made or cooperative agreement entered~~  
19 ~~into under this section without the approval of the commission.~~

20 *SEC. 6. Section 5090.51 of the Public Resources Code is*  
21 *amended to read:*

22 5090.51. (a) Except as provided in subdivision (b), to be  
23 eligible for a grant, the applicant shall agree to provide, and  
24 provide, matching funds, or the equivalent value of services,  
25 material, or property used, in an amount of not less than 25  
26 percent of the total expense of the off-highway motor vehicle  
27 facility.

28 (b) Notwithstanding subdivision (a), ~~there shall be no a~~  
29 matching fund requirement *shall not be* imposed with respect to  
30 ~~any a~~ grant, or portion of ~~any a~~ grant, that consists of funding for  
31 the planning, acquisition, development, or construction of a  
32 regional off-highway motor vehicle facility. The ~~commission~~  
33 *division* shall adopt criteria for the determination of ~~which those~~  
34 facilities *that* are regional and ~~which those that~~ are less than  
35 regional. The criteria shall take into account, at a minimum, all of  
36 the following:

37 (1) That the facility for which a grant is requested is or will be  
38 primarily for casual usage.

39 (2) The size of each facility.



1 (3) The diversity of vehicle-related recreational activities to be  
2 provided by the facility.

3 (4) The size of the population of potential users of the facility  
4 and the extent of the geographic area to be served by the facility.

5 (5) The potential for each facility for which a grant is  
6 requested to become financially self-sustaining.

7 *SEC. 7. Section 5090.54 is added to the Public Resources*  
8 *Code, to read:*

9 *5090.54. (a) In awarding a grant or entering into*  
10 *cooperative agreements for the purpose of providing law*  
11 *enforcement and appropriate public safety activities pursuant to*  
12 *subdivision (c) of Section 5090.32 provision shall be made for*  
13 *designating the appropriate county sheriff as the off-highway*  
14 *motor vehicle law enforcement coordinator.*

15 *(b) In awarding grants, described in subdivision (a), the*  
16 *division shall develop and implement a system for minimum*  
17 *grants to those law enforcement agencies that comply with the*  
18 *technical aspects of grant applications as certified by the*  
19 *division.*

20 *(c) A law enforcement agency that makes a grant application*  
21 *or receives funding from a grant shall demonstrate an ability to*  
22 *provide, maintain, enhance, or create new off-highway motor*  
23 *vehicle recreational opportunities.*

24 *SEC. 8. Section 5090.63 of the Public Resources Code is*  
25 *repealed.*

26 ~~5090.63. This article shall become operative on July 1, 1983.~~

27 *SEC. 9. Section 5090.70 of the Public Resources Code is*  
28 *repealed.*

29 ~~5090.70. This chapter shall remain in effect only until~~  
30 ~~January 1, 2007, and as of that date is repealed, unless a later~~  
31 ~~enacted statute, that is enacted before January 1, 2007, deletes or~~  
32 ~~extends that date.~~

33 *SEC. 10. Section 38225 of the Vehicle Code, as amended by*  
34 *Section 40 of Chapter 563 of the Statutes of 2002, is amended to*  
35 *read:*

36 *38225. (a) A service fee of seven dollars (\$7) shall be paid to*  
37 *the department for the issuance or renewal of identification of*  
38 *off-highway motor vehicles subject to identification, except as*  
39 *expressly exempted under this division.*

(b) In addition to the service fee specified in subdivision (a), a special fee of eight dollars (\$8) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles. All money shall be deposited in the fund, which is a trust fund, and, upon appropriation by the Legislature, shall be allocated by the Off-Highway Motor Vehicle Recreation Commission, as provided in this section. Money in the fund shall be administered by the commission, as trustee of the fund, and, subject to Section 5090.61 of the Public Resources Code, shall be allocated for those purposes set forth in Section 5090.50 of the Public Resources Code.

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

(e) This section shall remain in effect only until January 1, 2007 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007 2009, deletes or extends that date. Any unencumbered funds remaining in the Off-Highway Vehicle Trust Fund on January 1, 2007, shall be transferred to the General Fund.

*SEC. 11. Section 38225 of the Vehicle Code, as amended by Section 3 of Chapter 227 of the Statutes of 2001, is amended to read:*

38225. (a) A service fee of seven dollars (\$7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) This section shall become operative on January 1, 2007 2009.

1     SECTION 1. ~~Section 5090.25 is added to the Vehicle Code,~~  
2     ~~to read:~~  
3     ~~5090.25. It is the intent of the Legislature to enact legislation~~  
4     ~~addressing the membership composition of, and the procedures~~  
5     ~~employed by, the commission.~~

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